



January 31, 2003

HOUSE BILL No. 1164

DIGEST OF HB 1164 (Updated January 29, 2003 3:25 PM - DI 96)

Citations Affected: IC 5-22.

Synopsis: Review of privatization savings. Provides that a contract or the solicitation for a contract to privatize any of the functions currently performed by a governmental body's employees that would result in the layoff or dismissal of any of the governmental body's employees must: (1) require an offeror to provide verifiable evidence that the cost of the contract will be less than the cost of having the functions performed by the governmental body's employees; (2) specify that the governmental body may not pay the contractor more than the cost the governmental body determined the governmental body would incur to perform the functions using its own employees; (3) require the governmental body to provide to an offeror an estimate of the cost of having the functions performed by the governmental body's employees; and (4) contain a statement that the governmental body may pursue certain remedies if the contractor fails to comply with the contract. Permits a representative of any group of the governmental body's employees to submit an offer for the group to perform the functions and requires the governmental body to award the contract to the group of employees under certain circumstances. Excludes from these requirements purchases from qualified nonprofit agencies for persons with severe disabilities.

Effective: July 1, 2003.

Dickinson

January 8, 2003, read first time and referred to Committee on Labor and Employment.
January 30, 2003, amended, reported — Do Pass.

HB 1164—LS 6231/DI 14+



C
o
p
y

January 31, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1164

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-22-3-7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 7. (a) This section applies to a solicitation for a**
4 **contract that would require the contractor to perform any of a**
5 **governmental body's functions that are performed at the time of**
6 **the solicitation by the governmental body's employees.**
7 **(b) A representative of any group of the governmental body's**
8 **employees may submit in response to the solicitation an offer for**
9 **the group of employees to perform the functions that are the**
10 **subject of the solicitation.**
11 **(c) The governmental body shall award the contract to the**
12 **group of employees if this article would otherwise require the**
13 **contract to be awarded to a person that submitted the group's**
14 **offer.**
15 SECTION 2. IC 5-22-5-9 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2003]: **Sec. 9. (a) This section applies to a solicitation for a**

HB 1164—LS 6231/DI 14+



C
o
p
y

contract that would require the contractor to perform any of a governmental body's functions that:

- (1) are performed at the time of the solicitation by the governmental body's employees; and
- (2) would result in the layoff or dismissal of any of the governmental body's employees.

This section does not apply to a purchase under IC 5-22-13.

(b) The solicitation must include the following:

(1) An estimate of the cost the governmental body would incur if performing the functions covered by the contract with the governmental body's employees during the period comprising the term of the proposed contract. The estimate must include labor, overhead, administrative, equipment, supply, and any other costs.

(2) A requirement that the offeror must provide objective, verifiable evidence that:

(A) is satisfactory to the governmental body; and

(B) demonstrates that if the offeror is awarded the contract, the cost of the contract over the term of the contract will be less than the amount described in subdivision (1).

(3) A statement that the contract between the governmental body and the offeror must contain a provision that the governmental body may not pay to the offeror, over the term of the contract, more than the cost the governmental body determined the governmental body would incur to perform the functions with the governmental body's employees during the period comprising the term of the contract.

(4) A statement that the contract between the governmental body and the offeror may provide for the deposit of surety bonds, the making of good faith deposits, liquidated damages, the right of reversion or repurchase, or other rights and remedies if the offeror fails to comply with the contract.

SECTION 3. IC 5-22-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Supplies and services purchased under this chapter must:

- (1) meet the specifications and needs of the purchasing governmental body; and
- (2) be purchased at a fair market price.

(b) Supplies and services purchased under this chapter are not subject to IC 5-22-5-9.

SECTION 4. IC 5-22-16-7 IS ADDED TO THE INDIANA CODE



C
o
p
y

1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2003]: **Sec. 7. (a) This section applies to a solicitation for a
3 contract that would require the contractor to perform any of a
4 governmental body's functions that:**

5 (1) are performed at the time of the solicitation by the
6 governmental body's employees; and

7 (2) would result in the layoff or dismissal of any of the
8 governmental body's employees.

9 This section does not apply to a purchase under IC 5-22-13.

10 (b) An offeror may not be considered responsive to the
11 solicitation if the offeror does not provide objective, verifiable
12 evidence that:

13 (1) is satisfactory to the governmental body; and

14 (2) demonstrates that, if the offeror is awarded the contract,
15 the cost of the contract over the term of the contract will be
16 less than the cost the governmental body estimates the
17 governmental body would incur if performing the functions
18 covered by the contract with the governmental body's
19 employees during the period comprising the term of the
20 proposed contract.

21 SECTION 5. IC 5-22-17-15 IS ADDED TO THE INDIANA CODE
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
23 1, 2003]: **Sec. 15. (a) This section applies to a contract that would
24 require the contractor to perform any of a governmental body's
25 functions that:**

26 (1) are performed at the time of the solicitation for the
27 contract by the governmental body's employees; and

28 (2) would result in the layoff or dismissal of any of the
29 governmental body's employees.

30 This section does not apply to a purchase under IC 5-22-13.

31 (b) A contract referred to in subsection (a) must contain the
32 statement described in IC 5-22-5-9(b)(3).

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1164, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-22-3-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. (a) This section applies to a solicitation for a contract that would require the contractor to perform any of a governmental body's functions that are performed at the time of the solicitation by the governmental body's employees.**

(b) A representative of any group of the governmental body's employees may submit in response to the solicitation an offer for the group of employees to perform the functions that are the subject of the solicitation.

(c) The governmental body shall award the contract to the group of employees if this article would otherwise require the contract to be awarded to a person that submitted the group's offer."

Page 1, line 3, delete "This section applies to a solicitation for a" and insert **"This section applies to a solicitation for a contract that would require the contractor to perform any of a governmental body's functions that:**

- (1) are performed at the time of the solicitation by the governmental body's employees; and**
- (2) would result in the layoff or dismissal of any of the governmental body's employees.**

This section does not apply to a purchase under IC 5-22-13."

Page 1, delete lines 4 through 7.

Page 1, line 13, delete "and other administrative" and insert **"administrative, equipment, supply, and any other"**.

Page 2, line 7, delete "offeror" and insert **"governmental body"**.

Page 2, line 26, delete "This section applies to a solicitation for a" and insert **"This section applies to a solicitation for a contract that would require the contractor to perform any of a governmental body's functions that:**

- (1) are performed at the time of the solicitation by the governmental body's employees; and**
- (2) would result in the layoff or dismissal of any of the governmental body's employees.**



C
o
p
y

This section does not apply to a purchase under IC 5-22-13."

Page 2, delete lines 27 through 30.

Page 3, line 2, delete "This section applies to a contract that would"
and insert "**This section applies to a contract that would require the
contractor to perform any of a governmental body's functions that:**

**(1) are performed at the time of the solicitation for the
contract by the governmental body's employees; and**

**(2) would result in the layoff or dismissal of any of the
governmental body's employees.**

This section does not apply to a purchase under IC 5-22-13."

Page 3, delete lines 3 through 6.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1164 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 9, nays 3.

C
o
p
y

